

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.OP.No.12728 of 2020

1. Marconi S/o Emayavarman
2. Rajasekar S/o Durairaj
3. Mohan S/o Palanisamy
4. Sundaramoorthi, Uthirapathy ... Petitioners

Vs.

The State represented by
Inspector of Police,
Sirkali Police Station,
Nagapattinam District.
Crime No.1173 of 2020. ... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioners on bail in the event of their
arrest in Crime No. 1173 of 2020 on the file of the respondent
police.

For Petitioners : Mr. E.Parthiban

For Respondent : Mr.K.Prabakar,
Additional Public Prosecutor

O R D E R

(This case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the
respondent police for the offences punishable under Sections 448,
427, 294(b), 352 and 506 (2) IPC, in Crime No.1173 of 2020, on the
file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant is
that he is the Secretary of Pattali Makkal Katchi, Maiyladuthurai and
they arranged a meeting on the instructions of their leader and they
have assembled at Kamarajar Welfare Mandram and at that time, the
petitioners abused the defacto complainant in filthy language and
also attempted to assault the defacto complainant and his party
members. Hence the complaint.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The learned Counsel for the petitioners submitted that the

petitioners are innocent and a false complaint has been given out of political enmity. He would submit that originally the place Kamarajar Welfare Mandram was in the possession of the paternal uncle of the first petitioner and the defacto complainant and his men attempted to encroach the property and there is a dispute and a false complaint has been given against them. The petitioners have also lodged a counter case against the defacto complainant in Crime No.1174 of 2020 and he would further submit that due to political enmity a false complaint has been given. Hence, he prays for grant of anticipatory bail to the petitioners. 4. The learned Additional Public Prosecutor would submit that the petitioners belong to a particular political party and the defacto complainant belongs to a particular political party. With regard to the occupation of a poramboke land, the petitioners on 05.06.2020 abused the defacto complainant and his men in filthy language and also attempted to assault them with iron rod and wooden logs. They have also insisted the other people to assault them, however, submitted that a counter case has been registered against the defacto complainant in Crime No.1174 of 2020. He also submitted that proceedings under Section 107 Cr.P.C., have been initiated and tension prevails in the village. Hence, he opposed for grant of bail to the petitioners.

5. Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

6. Accordingly, the petitioners are directed to be released on bail in the event of arrest or on their appearance, within a period of fifteen days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate, Sirkali on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two surety, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall stay at Chennai and report in the R-1 Mambalam Police Station daily at 10.30 a.m.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action

against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

7.With the above directions, this Criminal Original Petition is ordered.

-sd/-

20/08/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
SIRKALI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
SIRKALI POLICE STATION,
NAGAPATTINAM DISTRICT.

4 THE OFFICER INCHARGE
R-1, MAMBALAM POLICE STATION,
CHENNAI

CC to M/S. E.PARTHIBAN Advocate on payment of necessary charges

WEB COPY

CRL OP.12728/2020

Date :20/08/2020

RD 09/09/2020